



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

FAO-2015-2007 (O&M)

Date of Decision: October 03, 2024

Neelam and others

.....Appellants

Vs.

Mohan Singh and others

.....Respondent(s)

CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present: Mr. Veneet Sharma, Advocate
for the appellants.

Mr. Neeraj Khanna, Advocate
for the respondent-Insurance Co.

SUDEEPTI SHARMA J.

1. The present appeal has been preferred against the award dated 19.02.2007 passed in the claim petition filed under Section 163-A of the Motor Vehicles Act, 1988 by the learned Motor Accident Claims Tribunal, Amritsar (for short, 'the Tribunal') for enhancement of compensation, granted to the claimants/appellants.

FACTS NOT IN DISPUTE

2. The brief facts of the case are that on 09.02.2004, Vipin Gulati (since deceased) along with Sujinder Walter, Kavita and Kamini was coming back from Milan Palace, Mehta to Amrtisar after performing programme in a three wheeler/auto rickshaw bearing temporary Number PB-10-AP-Temp/2004/8620, chasis No. 75817 M3, Engine No. R3K45835, which was being driven by Mohan Lal, respondent No. 1. When they reached ahead of village Dhapiyan, the said three



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colour. As a result of this impact, Vipin Gulati who was sitting on the back seat, fell on the road and came under the wheel of Tata Sumo and died at the spot. Thereafter, the three wheeler struck against the trolley loaded with wood, lying parked at that place. The other occupants also received injuries. F.I.R No. 40 dated 09.04.2004 was registered in Police Station, Jandiala regarding the accident.

3. Upon notice of the claim petition, respondents appeared and denied the factum of compensation.

4. From the pleading of the parties, the Tribunal framed the following issues:-

1) Whether death of Vipin Kumar Gulati took place on account of use of motor vehicle/three wheeler No. PB-10-AP-Temp/2004/8620? OPA

2) Whether the applicants are the only legal representatives of Vipin Kumar, deceased? OPA

3) Whether there was no route permit and fitness certificate of the offending vehicle at the time of the accident? If so, to what effect ? OPR-3

4) Whether the applicants are estopped from filing the present claim application? OPR-3

5) Whether the application is bad for non-joinder of driver, owner and insurer of the other vehicle involved in the accident? OPR-3

6) Whether respondent No. 1 at the time of the accident was not having any valid and effective driving licence. If so, to what effect? OPR-3

7) How much compensation, the applicants are entitled to recover and from which of the respondents? OPA



8) *Relief.*”

5. After taking into consideration the pleadings and the evidence on record, the learned Tribunal allowed the claim petition filed by the claimants/appellants and granted the compensation to the tune of Rs.1,60,750/-. Hence the claimants/appellants filed the present appeal for enhancement of compensation.

SUBMISSIONS OF THE COUNSEL FOR THE PARTIES

6. The learned counsel for the claimants-appellants contends as under:-

- i) That the compensation awarded to the claimants is on the lower side, as Vipin Gulati (since deceased) was 48 years old at the time of accident and was the sole bread earner in the family.
- ii) That Section 163-A of Motor Vehicles Act, 1988 is substituted by Section 164 of Motor Vehicles Act, 1988 (Act 32 of 2019 w.e.f 01.04.2022) and compensation should be enhanced as per the substituted statutory provision i.e. Section 164 of the Act.
- iii) That the present case is covered by the judgment rendered by this Court in **FAO No.4301 of 2006**, titled as “**Akaljit Kaur and Others Vs. Parveen Kumar and Others.**” wherein the claim under Section 163-A of the Motor Vehicles Act, 1988 was converted to Section 164 of Motor Vehicles Act, 1988 (Act 32 of 2019 w.e.f 01.04.2022) by relying upon the judgment of Hon’ble *Supreme Court in the case of Ram Murti and others Vs. Punjab State Electricity Board [2022(4) TAC 738]* wherein it was held that Section 164 of the Motor Vehicles Act, 1988 (Act 32 of 2019 w.e.f 01.04.2022) provides for payment of compensation in case of death in the amount of Rs.5 lakhs and in the case of grievous hurt of Rs.2.5 lakhs.



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7. Per contra, learned counsel for the respondent however, vehemently argues that the award has rightly been passed and the amount of compensation as assessed by the learned Tribunal has rightly been granted.

8. I have heard learned counsel for the parties and perused the whole record of this case.

9. A perusal of the award indicates that in the present case, the claimants filed the claim petition seeking compensation on account of death of Vipin Gulati who was about 48 years of age and was the sole bread earner of the family. The Tribunal had taken the income of the deceased as Rs.36000/- per annum. Since Section 163-A of Motor Vehicles Act, 1988 is now substituted by Section 164 of Motor Vehicles Act, 1988 (Act 32 of 2019 w.e.f 01.04.2022) and compensation should be enhanced as per the substituted statutory provision i.e. Section 164 of the Act, therefore, the appellants herein are entitled to be granted the benefit of beneficial provision enacted by the Parliament under Chapter 11 of which Section 164 provides for payment of compensation in the case of death in the amount of Rs.5 lakhs and in the case of grievous hurt of Rs.2.5 lakhs.

10. Further, this Court in **FAO No.4301 of 2006**, titled as “**Akaljit Kaur and Others Vs. Parveen Kumar and Others**” held as under:-

“11. Hon’ble Supreme Court in the case of **Ram Murti and others Vs. Punjab State Electricity Board** [2022(4) TAC 738] held that the appellants therein to be granted the benefit of beneficial provision enacted by the Parliament under Chapter 11 of which Section 164 provides for payment of compensation in the case of death in the amount of Rs.5 lakhs and in the case grievous hurt of Rs.2.5 lakhs.



12. *This Court in **FAO-195-2006** titled as **Mamta and Others Vs. Happy and Others**, decided on 29.05.2024, held that since Motor Vehicle statute is a beneficial legislation, the Judge should not go into the technicalities of the provisions, under which the application or petition is moved but should apply his judicial mind, as these are only the irregularities and not illegalities which cannot be cured. It has been observed by the Hon'ble Supreme Court that the loss caused to the claimants or the relationship or to the victim of the limb cannot be compensated. Still the Court should make every effort by exercising its discretion empathetically. Further, Justice should actually be shown to be delivered by application of judicial mind with intelligence, prudence, care and caution and by showing empathy. The Court decision should be such that they strengthen the trust and confidence of public and litigants in judicial system and judiciary."*

11. In view of the above, the claimants/appellants are held entitled to compensation to the tune of Rs.5 lakhs. The Tribunal has awarded compensation of Rs.1,60,750/- to the claimants/appellants, therefore, now the enhanced amount of Rs.3,39,250/- (Rs.5,00,000-1,60,750/-) be disbursed amongst the claimants/appellants.

12. So far as the interest part is concerned, as held by Hon'ble Supreme Court in **Dara Singh @ Dhara Banjara Vs. Shyam Singh Varma 2019 ACJ 3176** and **R.Valli and Others VS. Tamil Nandu State Transport Corporation (2022) 5 Supreme Court Cases 107**, the appellants-claimants are granted the interest @9% per annum on the enhanced amount from the date of filing of claim petition till the date of its realization.



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13. The Insurance Company is directed to deposit the awarded amount along with interest with the Tribunal within a period of two months from today. The appellants-claimants are directed to furnish their bank account details to the Insurance Company/Tribunal. The Tribunal is further directed to disburse the enhanced amount of compensation along with interest in the bank accounts of the appellants-claimants, as per ratio settled in award dated 19.02.2007.

14. Pending applications, if any, also stand disposed off.

(SUDEEPTI SHARMA)
JUDGE

October 03, 2024
G Arora

Whether speaking/non-speaking : Yes/No
Whether reportable : Yes/No